

U.S. Department of Labor

Board of Contract Appeals
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September 27, 1999

Case Nos.: 1997-BCA-4, 1999-BCA-2

Appeal of

BRERO CONSTRUCTION, INC.

Contract No.: E-4098-3-00-82-20

**RULING ON APPELLANT'S MOTION TO COMPEL ANSWERS
TO INTERROGATORIES, REQUEST FOR PRODUCTION
OF DOCUMENTS, AND REQUEST FOR ADMISSIONS**

On August 31, 1999, Appellant filed a Motion To Compel Answers to Interrogatories, Request for Production of Documents, and Requests for Admissions under cover of a letter dated August 27, 1999. The First Set of Interrogatories and other requests had been transmitted to Respondent by letter dated July 8, 1999. In substance, Appellant complains that the Contracting Officer has not responded to the interrogatories by the due date of August 9, 1999, but instead filed a Motion To Stay Response to Appellant's Discovery, which has not been granted, so that the responses sought are long overdue. Appellant asserts that it is prejudiced by the failure to answer the discovery requests. The particular relief that Appellant requests is that the Board issue an order directing the Contracting Officer to respond to the interrogatories, and produce copies of documents requested. Appellant also requests an order deeming Appellant's requests for admissions to be admitted. Appellant's objection to the Contracting Officer's motion to stay its responses is premised on its contention that its responses to the Contracting Officer's discovery requests have been sufficient and appropriate, and that the Contracting Officer's request represents abuse of discovery process.

The Contracting Officer's Motion to Stay Response to Appellant's Discovery filed July 22, 1999, under cover letter of even date, requests a stay of its response to Appellant's discovery until a decision has been issued on the Contracting Officer's Motion To Compel Responses to Interrogatories which was filed on May 14, 1999. That motion was filed because the Contracting Officer deemed the Appellant's responses to the interrogatories to be substantially deficient for reasons specified. The Contracting Officer also complains that Appellant's response to Respondent's request for admissions was not signed and was untimely. The Contracting Officer avers that Appellant has reviewed the DOL files related to the contract and that the Contracting Officer has

forwarded to Appellant copies of the documents which Appellant had not previously reviewed, including those previously withheld on the grounds of privilege. The Contracting Officer suggests that the manner in which the Appellant is allowed to answer his interrogatories would affect the manner of the Contracting Officer's response to Appellant's interrogatories. Consequently, the Contracting Officer has requested a stay of his response until thirty days after the Board's disposition of

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the Contracting Officer's Motion to Compel.

An order requiring the Appellant to respond appropriately to the Contracting Officer's interrogatories is being issued concurrently with this ruling. Therefore, the Contracting Officer is directed to answer the Appellant's First Set of Interrogatories, and Request for Admissions as soon as practicable, but in such manner as to be delivered to Appellant not later than Friday, October 8, 1999. The Contracting Officer's Motion To Stay his response is granted to the date of this order, and otherwise denied. Appellant's Request for Production of Documents has been dealt with concurrently but separately. Appellant's motion for an order effecting the requested admissions, and for other relief as set forth in its objection to the Contracting Officer's motion is denied.

So ordered.

EDWARD TERHUNE MILLER
Member, Board of Contract Appeals